

BIG 6 FARM

H-2A LABOR SYNOPSIS FOR THINNING PEACHES

Al Pearson

Stone fruit agriculture is intrinsically more labor intensive than most other agricultural crops, primarily due to the tenderness of the fruit which prohibits mechanical pruning, thinning or harvesting. In the mid-1990's it became apparent that the Hispanic migrant labor my farm had become dependent upon in the 1980's due to a movement of local and domestic labor away from agricultural jobs was comprised mostly of illegal aliens and we chose to seek a way to assure that my labor force was completely legal. The only option we found to secure 100% legal labor was to utilize the H-2A program through the US Department of Labor in conjunction with the INS.

The H2-A program is a costly program with specific rules and regulations enforced by the USDOL and other governing bodies, including the ETA (Employment and Training Administration).

A brief outline of my responsibilities as an H-2A employer:

- Any employer who has been certified for a specific number of H-2A jobs must have initially attempted to recruit US workers and must continue “positive” recruitment until 50% of the certified contract period has been completed. This ultimately means that at any time during the first 50% of a “certified contract” we must hire any person who applies for a position as long as “ready, willing and able to work” up to the total number of H-2A workers applied for originally and provide them the same job security.
- An H-2A employer must pay to all workers in certified jobs a wage rate the higher of either: (a) the Adverse Effect Wage Rate (AEWR); or (b) the Prevailing Rate for a given crop/area but not less than Minimum Wage.
- H-2A employers must provide each worker employed an offer of at least 75% of the total hours in the contract period—called the “three-fourths” guarantee.” For example, if a contract is for a 10-week period, during which a normal workweek is specified as 6-days a week, 8-hours per day, the worker would have to be guaranteed employment for at least 360 hours (e.g., 10 weeks x 48 hours/week = 480 hours x 75% = 360).
- Every non-local worker employed is entitled to be paid for all transportation costs related to travel from the place where the worker was recruited for the job, and then back to be workers’ area of residence. In addition we must provide OSHA approved housing and daily transportation to the job site as well as weekly transportation to obtain groceries and services, etc.

As this relates to me as a grower, we must make timely, accurate decisions on labor required for the anticipated jobs. For this crop year (2001) we began working on the “certified contract” in late fall/early winter by deciding according to number of trees and anticipated work load how

many workers we would require for the full season. Sufficient housing had to be secured and pre-approved by the DOL. Positive recruitment began by advertising for agricultural workers in local/area newspapers which did not result in any local workers. The proper paperwork was completed and forwarded to the USDOL requesting certification for the upcoming peach crop for an H-2A contract beginning in early January (pruning) and ending in mid-August (end of harvest) based on the total number of workers we would require to prune, thin and harvest/pack our crop. All this must happen 45 days before “date of need” begins.

In mid-December an appointment was made in Monterrey, Mexico for the number of workers we would require for pruning in January. These workers are under contract to work until the approved contract ending date of August 10, 2001 as are any other workers we hire locally or bring up from Mexico. We will do the same again next week for an additional group of workers to help with thinning. We must accurately estimate the minimum number of workers required to handle the job as any additional workers will again be contracted to work 75% of guaranteed hours until end of contract. These workers will move on to the harvest portion of the operation after thinning is completed. The thinning window is very short and it is very important that we accurately estimate the exact number of workers needed. If we over-estimate the number of workers required and must terminate contracts to send them back home, we will have to pay the workers 75% of the full contract price in addition to transportation costs up here and back home to Mexico.

As this relates to thinning season, a specific number of workers who must be paid at least 75% of their total contract pay (from date of hire to end of contract in mid-August) must be decided on at least 3 weeks in advance to allow workers in Mexico who are being recruited enough time to get the paperwork required (they must “out of pocket” pay for Visa and Banamex application totaling \$145.00 US for which they are not reimbursed), set up appointment for Visa issuance in Monterrey and bring workers up to start working. The thinning window is very short—from early April until we start picking early ripening varieties, usually on/or about May 12 and is very labor intensive. If the trees are improperly thinned, we will get poor fruit development. There is usually a \$5-\$8 difference per ½ bushel package in small fruit (2-1/8 to 2-1/4") versus the consumer preferred size of larger fruit (2-1/2 to 2-3/4"). Our profitability is therefore dependent entirely upon the ultimate fruit size which is the direct result of the fruit thinning job done in the 6 week time frame specified by fruit development and impacted by weather conditions.

So, how does the H-2A program affect us?

- 1) We must accurately estimate the number of workers needed. If we request too few, we can't thin peaches adequately, size will be reduced and income drastically reduced. If we request too many, they will not get the work they anticipated and will possibly leave or remain (unsatisfied) and we would have to make up the difference in their paid wages and the 75% guarantee, plus paying transportation costs for the worker (about \$350 per worker for transportation). We do not have a “day labor”

option available to us. If we hire a worker to do any job described in the contract, that worker is hired for the full contract period with all benefits dictated by the H-2A contract afforded to same. We need a 4 week period of efficient, uninterrupted work during the critical thinning period.

Trees may be thinned twice if a good crop is present. The first thinning operation takes 8-12 minutes per tree and the 2nd follow-up operation takes 4-5 minutes. An orchard of early peaches could be thinned—but, we must spray to have a viable crop!

For this early ripening variety orchard (example below), when do I thin if I use a chemical with a 7 day REI? The first 4 weeks after bloom are generally on a 7-day interval spray regimen, then go to 10 days, so April would have 2 7-day interval sprays required and 2 10-day applications. And remember, I may need to thin the orchard twice during this time as well. The fruit needs at least 3-1/2 to 4 weeks after thinning to size properly before harvest. Thinning the fruit 1 week before harvest does not appreciably increase fruit size. Two of the cat-facing insects we are fighting (tarnished plant bug and stink bug) are currently “un-scoutable”, so we are relegated to calendar sprays during this time frame.

APRIL / MAY 2001 (//////////=No Entry)

APRIL 1 SPRAY	2 //////////	3 //////////	4 //////////	5 //////////	6 //////////	7 //////////
8 SPRAY	9 //////////	10 //////////	11 //////////	12 //////////	13 //////////	14 //////////
15 Re-Enter	16	17	18 SPRAY	19 //////////	20 //////////	21 //////////
22 //////////	23 //////////	24 //////////	25 Re-Enter	26	27	28 SPRAY
29 //////////	30 //////////	May 1 //////////	2 //////////	3 //////////	4 //////////	5 Re-Enter
6	7	8	9	10	11	12
13	14	15 Harvest	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

So, if we use a chemical (Imidan) with a 7-day REI, when do I thin. If I use another option (pyrethroid) I am encouraging other insect populations (scale, mites) which will require extra, more expensive sprays, and I increase the likelihood of tree injury (if not death) which renders the orchard unprofitable.

Once again, remember, pick-up “day labor” is not an option—there is not a labor base locally for us to utilize and according to H-2A regulations, once a worker hired, he is hired for the duration of the contract. Which means, if we could pick up an additional 100 people to help with the thinning, we would have to pay the additional people for the balance due on the contract whether there was work for them after thinning or not.